

**CALIFORNIA COASTAL COMMISSION**

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Staff:	MJW-SC
Staff Report:	01/16/03
Hearing Date:	02/06/03

## STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION

<b>APPEAL NUMBER:</b>	<b>A-3-PSB-02-080, California Design Associates</b>
<b>LOCAL GOVERNMENT:</b>	<b>City of Pismo Beach</b>
<b>DECISION:</b>	<b>Approved with conditions, 09/17/02</b>
<b>APPLICANT:</b>	<b>California Design Associates</b>
<b>APPELLANTS:</b>	<b>Si Changala, Lawrence &amp; Shirley Coelho, Gratian Bidart, Marjorie Avellar, John &amp; Nivia Fernandes, David and Tina Macedo.</b>
<b>PROJECT LOCATION:</b>	<b>271 Wadsworth, (Downtown Core Planning Area), Pismo Beach (San Luis Obispo County) APN 005-114-010. Exhibit 1.</b>
<b>PROJECT DESCRIPTION:</b>	<b>Demolition of two existing small residences to facilitate construction of one single-family home and two apartments on a 5,500 square foot lot.</b>
<b>FILE DOCUMENTS:</b>	<b>City of Pismo Beach Certified Local Coastal Program; Final Local Action Notice 3-PSB-02-470; City of Pismo Beach City Council Resolution No. R-02-58.</b>
<b>RECOMMENDATION:</b>	<b>No Substantial Issue</b>

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that **NO** substantial issue exists with respect to the grounds on which the appeal has been filed. Staff has determined that the action on a Coastal Development Permit (02-0118) and variance does not raise a substantial issue regarding conformance



**California Coastal Commission**  
**February 6, 2003 Meeting in San Diego**

Staff: M. Watson Approved by:

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with the standards set forth in the City of Pismo Beach Certified Local Coastal Program, which includes the Downtown Core Area Plan.

The City's action approved the demolition of two existing small residences and subsequent construction of one home and two apartments on a single 5,500 square foot lot. The project is located within the Coastal Zone in the Downtown Core planning area of the City of Pismo Beach, San Luis Obispo County (project vicinity and site location maps are shown in Exhibits 1 and 2, respectively). The property (APN 005-114-010) is located at 271 Wadsworth.

The appellants contend that the project does not comply with the City of Pismo Beach Local Coastal Program (LCP) because:

- Appellants did not receive adequate notification.
- There are not adequate facilities/utilities to serve the new development;
- Inappropriate application of a variance;
- Project obstructs public and private views;
- Multifamily development not consistent with other development on the block.
- Development not consistent with zoning ordinances.
- No environmental study was required.

These contentions do not raise a substantial issue because the proposed project is in conformance with the Downtown Core Area Plan and policies (p. LU37–LU42) for development of single family residences and apartments in the Coastal Zone, as well as the certified zoning ordinance Sections 17.102 and 17.108. Specifically, the project is consistent with the land use plan and zoning ordinance of the LCP, there are adequate facilities to serve the development, issuance of a variance does not constitute a grant of privilege, public views are protected, and sufficient notification of public hearing was given.



**STAFF REPORT CONTENTS**

SUMMARY OF STAFF RECOMMENDATION.....	1
1. LOCAL GOVERNMENT ACTION .....	3
2. APPEAL PROCEDURES.....	3
3. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE.....	4
4. RECOMMENDED FINDINGS AND DECLARATIONS .....	4
A. Project Location and Description.....	4
B. Substantial Issue Analysis .....	5
1. Community Character .....	5
2. Variance .....	6
3. Visual Resources .....	7
4. Infrastructure .....	8
5. Notification of Public Hearing .....	9

**Exhibits**

1. Vicinity Maps
2. Site Location Map
3. Site Plans, Elevations
4. Appellant's Contentions
5. San Luis Obispo County Findings and Conditions of Approval

**1. LOCAL GOVERNMENT ACTION**

The City of Pismo Beach Planning Commission approved a coastal development permit for the subject development in on July 9, 2002, subject to 27 conditions and mitigation measures. This action was appealed to the City Council on July 22, 2002. The Planning Commission action was upheld and the appeal was denied on September 17, 2002 by a vote of 5 to 0.

**2. APPEAL PROCEDURES**

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located within 300' of the inland extent of the beach (mean high tide line).

The grounds for appeal under section 30603 are limited to allegations that the development does not



conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located within 300 feet of the inland extent of the mean high tide line.

### 3. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed, pursuant to Coastal Act Section 30603.

**MOTION:** *I move that the Commission determine that Appeal No. A-3-PSB-02-080 raises a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:**

Staff recommends a **NO** vote on the motion. Failure of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. A-3-PSB-02-080 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

### 4. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

#### **A. Project Location and Description**

The project is located at 271 Wadsworth in the City of Pismo Beach within the Downtown Core Planning Area, San Luis Obispo County (Exhibit 2). The LCP zoning designates the project area as Resort Residential. The Resort Residential zone is a transition zone that permits a mixture of



hotel/motels along with apartments, condominiums, and other residential uses. The project involves demolition of two existing small homes on the site (560 square feet and 1,032 square feet) and the construction of a 1,718 square foot single-family residence with garage and a secondary unit with two 500 square foot apartments and garage unit (800 square feet) on a 5,550 square foot lot near the midpoint of Wadsworth. The City approval was conditioned to require a dedication of a public utilities easement 3 feet in depth at the front of the lot. Copies of the project plans are attached to this report as Exhibit 3.

## **B. Substantial Issue Analysis**

The appellants contend that the project does not comply with the City of Pismo Beach Local Coastal Program because it is not compatible with the character of the surrounding neighborhood, it obstructs public and private views, no environmental review performed, inappropriate application of variance ordinance, not adequately facilities to support development, and inadequate noticing of nearby property owners (see Exhibit 4 for text of appellants' contentions). As discussed below, the approved project does not raise a substantial issue in regards to the LCP's Land Use Plan and Zoning Ordinance policies.

### **1. Community Character**

#### **Appellant Contentions**

With regard to community character, the appellants contend that the project does not conform to the single family occupied housing on the balance of the block. Additionally, the appellants contend that the development does not meet the multi-family residential design criteria for the unit's relation to the street (i.e., the apartments do not face the street). The appeal asserts that the City has not appropriately applied its standards to protect the unique character of the community. The appellant states:

*5. Multi-family housing is not consistent with single-family/owner occupied housing on the balance of the block –not keeping with the character of the neighborhood.*

*6. Development does not meet multi-family residential design criteria for unit's relation to the street (D-4). The apartment units are not facing the street, thus not reinforcing the traditional active beach street environment.*

#### **Relevant LCP Policies**

The LCP standards applicable to this contention can be found in the Downtown Core Planning Area section of the LUP and the certified Zoning Ordinance of the City of Pismo Beach LCP.



**Section LU-K-3.1 – Mixed Residential (MR) District:** *The Mixed Residential or MR District shall permit a mixture of hotels and motels along with apartments, condominiums, and other similar residential uses...*

**Section D-4: Units Relation to Street.** *Generally the street frontage should consist of residential units with windows, doors, balconies, and porches facing and in reasonable close proximity to the street....orientation reinforces the traditional beach, active street environment and also increases street safety with “eyes” on the street.*

## Analysis and Conclusion

The neighborhood is “transitional” in that the zoning allows for residential as well as hotel/motel development. Much of the properties are developed with single-story and two-story residences on Wadsworth Street, though the City’s LCP promotes higher density development in this area. The applicants proposed to demolish the existing use of two small single-family units and redevelop the lot with one single-family home (1,714 square feet) and a secondary unit with two 900 square foot apartments. The proposed development is a principally permitted use under the Resort Residential zoning and complies with the City’s ordinances for lot coverage, floor area ratio, building height, minimum landscape area, parking, and density. The Commission, therefore, finds no substantial issue.

## 2. Variance

### Appellants Contentions

With regard to the issuance of a variance, the appellants contend that the action constitutes a grant of privilege and was not necessary given the variety of development options available. Appellants state:

*3. Issuance of a variance offering special privilege when deprivation of property privileges are not an issue due to variety of development options. The current set back requirements allow for development without a variance.*

### Relevant LCP Policies

The LCP standards applicable to this contention can be found in the certified Zoning Ordinance of the City of Pismo Beach LCP.

**17.121.030 Variances:** *Variances from the structural development standards of this Ordinance for any zone may be granted by the Planning Commission when unusual hardships arise from the strict application of said standards applicable to a property. (1). Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.*



## Analysis and Conclusion

The applicant requested that a 3 foot variance be granted to the 15 foot front yard setback to offset the required 3 foot public utilities/street dedication at the Wadsworth Street frontage. A variance may be granted if unusual circumstances apply to the lot. In this case, the Planning Commission found that special circumstances consisted of the City's requirement for dedication of a street right-of-way in the downtown area. Specifically, requiring the front yard setback of 15 feet would deprive the property of privilege enjoyed by other property in the neighborhood and under identical zoning. Certainly there are developed lots that do not conform to the setbacks requirements in the zoning ordinance. Many residences were already built prior to the adoption of the ordinance. As redevelopment occurs, one would expect that nonconformities be corrected. While it may be argued whether the constraints on the lot are sufficient for the City to approve a variance, which is specifically reserved for unusual hardships derived from strict application of the standards, the difference of 3 feet simply does not rise to a level of significance with regard to LCP conformance. Therefore, the Commission finds no substantial issue.

## 3. Visual Resources

### Appellant Contentions

The appellants contend that the project will obstruct public and private view to the Pacific Ocean. They contend:

*4. View obstruction resulting in 50% of the block and Highways 1 and 101, losing full or partial view of focal points set forth by the Coastal Planning Commission, thus impairing the desirability of investment or occupation in the neighborhood.*

### Relevant LCP Policies

Design Element policy D-23 of the City's Land Use Plan provides guidance to protect views of the Pacific Ocean from Highway 101.

**D-23 U.S. 101 Freeway. D.** *Require new commercial signs, soundwalls, and other developments be modified in height, size, location or design so that existing "bluewater" ocean views from U.S. Highway 101 will not be blocked, reduced, or degraded.*

### Analysis and Conclusion

Private property views are not protected by ordinance or the general plan. As mentioned above, the City's Land Use Plan provides guidance for protecting public views from scenic highways and other locations. Figure D-3 of the City's Land Use Plan, Special Design Concerns, illustrates the areas of special design consideration, focal points, and street ends that must be kept open to protect important public views. The street end of Wadsworth is identified as important to remain open for public views. The proposed development and entire project area is setback from the street and will not affect this public view. As a result, the Commission finds no substantial issue.



## 4. Infrastructure

### Appellant Contentions

The appellants contend that the project will increase demand on City infrastructure, which is already at capacity. They contend:

*A density increase causing additional demands on parking, sewer and water –all at or exceeding capacity, presently.*

### Relevant LCP Policies

The certified land use plan and zoning ordinance identifies off-street parking requirements, the minimum lot area per family unit, and facilities requirements in the Resort Residential planning area.

**Section 17.108.020 Off Street Parking Requirements. (2)** *Two parking spaces per dwelling which may be permitted in parking courts, carports, or garages. Parking for multiple unit developments with one bedroom and studio units of less than 600 square feet in living area shall be required to provide 1.5 parking spaces per living unit.*

**Section 17.102.100 Minimum Lot Area per Family Unit. (5) R-4 and R-R Zones.** *Hotels/Motels: 500 square feet; Residential: 1,450 square feet.*

**P-8 Facilities Concurrent with Need.** *The City shall ensure that public facilities area available to adequately serve all new and existing development concurrent with new construction. For existing facilities requiring upgrading and/or replacement, the City shall plan for adequate funding of theses improvements to preclude interruptions or deterioration of service that may imperil the health and welfare of the residents and visitors to Pismo Beach.*

### Analysis and Conclusion

The rear apartments both being 500 square feet in living space require 1.5 parking spaces each. The single-family residence at the Wadsworth Street elevation requires 2 spaces. The proposal includes 5 legal parking spaces, two for the front residence and 3 for the rear apartments. A sixth parking spot is identified at the rear building. Thus, there is no inconsistency with the City ordinance.

City ordinance allows one dwelling per 1,450 square feet of lot area. The proposed 3 unit development would thus require a minimum lot size of 4,350 square feet (3 x 1,450). The lot size at 271 Wadsworth is 5,500 square feet minus a 150 square foot (3 x 50') easement dedication, or 5,350 square feet. The net lot size exceeds the minimum lot area required by City ordinance.

The Local Agency Formation Commission (LAFCO) February 2002 report on the City of Pismo Beach Municipal Services concluded that the City currently has an annual allocation of water of 2,696 acre feet with water usage (demand) reported at 2,156 acre feet annually. Similarly, the LAFCO report estimates dry weather capacity for its wastewater treatment facility at 1.5 million gallons (mgd) per day. Current demands placed on the system equal roughly 1.3 mgd or approximately 87% of capacity. The City is in the process of upgrading the wastewater treatment plant and has nearly completed construction of the Addie Street lift station. In both case, it appears that there is adequate facilities to





serve the proposed development. Furthermore, the proposal represents a redevelopment of an existing use, with existing water and wastewater connections. Thus, the proposed development is consistent with the City's certified land use plan and ordinances for provision of public utilities. No substantial issue is raised by this contention.

## **5. Notification of Public Hearing**

### **Appellant Contentions**

The appellants contend that adequate notice of the Planning Commission meetings was not provided to affected persons within a 300 foot radius of the proposed development. They contend:

*Improper notification, whereby a minimum of six property owners, within a 300 foot radius of the proposed project did not receive any notice of the Planning Commission hearing, and a plea for a hearing continuance was denied by the Commission.*

### **Analysis and Conclusion**

The City contends that it followed the procedures for mailing notices. An independent service was contracted to provide labels for property owners within a 300 foot radius of the proposed development. The contracted service obtained information from the County of San Luis Obispo to compile mailing labels and was the source of the imperfect mailing. The City made all reasonable efforts to contact current property owners. Though the Planning Commission refused to continue the hearing on the proposed development, appellants were able to appeal to the City Council and the Coastal Commission. No Substantial Issue raised.

